

REMARKS

The Office Action mailed February 3, 2010 has been carefully considered and the following response prepared. Claims 1-25 are pending in the application.

Claims 1 and 10 have been amended to recite that the surfaces are arranged in a matrix or coordinate system, and the surfaces are represented by one or many symbols linearly or in a matrix arranged in a different manner. Support for this amendment can be found throughout the specification and in particular at page 7 lines 6-7, page 12, lines 17-20, and 17, and in original claim 4. Claim 4 has been canceled without prejudice.

REJECTION UNDER 35 USC 101

At page 2 of the Office Action, the Examiner rejected claims 25 and 25 as nonstatutory subject matter because the claims do not set forth any steps involved in the claimed method or process.

Applicants traverse this rejection. Claim 24 has been amended to delete reference to the use of the device of claim 1, and instead recite the device of claim 1. Claim 25 has been amended to recite the method according to claim 20, wherein the method is performed for diagnosis immediately before, during or after a therapeutic measure.

Withdrawal of this section 101 rejection is respectfully requested.

REJECTION UNDER 35 USC 102(b)

At page 2 of the Office Action the Examiner rejected claims 1-14, 16-17 and 19-23 under 35 USC 102(b) as being anticipated by Brown et al., U.S. Patent 5,160,701.

Applicants traverse this rejection. Claims 1 and 10 have been amended, as discussed above, to recite that the surfaces are arranged in a matrix or coordinate system, and the surfaces are represented by one or many symbols linearly or in a matrix arranged in a different manner. Claims 2-9 which depend from claim 1, and claims 11-14, 16-17, and 19-23 which depend from claim 10, are also amended by the amendments to claims 1 and 10, respectively.

Brown et al., U.S. Patent 5,160,701 discloses devices useful in solid-phase binding assays to determine the presence or amount of an analyte in a test sample, and methods for using the device. The device comprises a reaction site having procedural controls and an analyte binding area capable of being simultaneously contacted by the sample and reagent used in the performance of the assay. The figures show devices having a single reaction site.

Brown et al. does not disclose devices wherein the surfaces with immobilized molecules or molecule classes provided on a panel of the device are arranged in a matrix or coordinate system, and the surfaces are represented by one or many symbols linearly or in a matrix arranged in a different manner, as recited in amended claims 1 and 10. Brown et al. therefore does not anticipate claims 1-14, 16-17 and 19-23.

Withdrawal of this section 102(b) rejection is respectfully requested.

REJECTION UNDER 35 USC 103 (Claims 15)

At page 8 of the Office Action, the Examiner rejected claim 15 under 35 USC 103 as being unpatentable over Brown et al, U.S. Patent 5,160,701 in view of Gao et al., published U.S. application 2006/0134804. The Examiner contended that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Brown et al. to provide any meaningful symbol for the control and detection areas for the benefit of providing easily read and understandable symbols/results to an untrained user.

Applicants traverse this rejection. Claim 15 is directed to the method of claim 14 wherein the surfaces are rendered visible as symbols consisting of several circles inside each other having one center dot are rendered visible, the dot appearing only in a positive detection case, and whereby each individual circle only becomes visible above a certain concentration value of the analyte, or a star with which each of the spokes becomes visible above a certain concentration value and, in the positive case, a predefined spoke appears or the individual spokes detect the presence of several analytes and one spoke appears above a certain concentration value or a combination of these symbols.

Brown et al., as discussed above, discloses devices useful in solid-phase binding assays to determine the presence or amount of an analyte in a test sample, and methods for using the device. The device comprises a reaction site having procedural controls and an analyte binding area capable of being simultaneously contacted by the sample and reagent used in the performance of the assay. The figures show devices having a single reaction site. Brown et al. mentions that the areas of the reaction site in which the assay takes place can take the form of dots, circles, numbers or crosses.

Gao et al. discloses a test device for detecting the presence of an analyte in a liquid sample and indicating to the user the presence or absence of the analyte with recognizable symbols, which can be a plus sign, a minus sign, letter from the alphabet, a number or other symbol.

Claim 15 is not obvious in view of the combined teachings of Brown et al. and Gao et al. The combined teachings of the cited references do not teach or suggest the arrangement of symbols recited in claim 15. There is no suggestion of symbols consisting of several circles inside each other having one center dot are rendered visible, the dot appearing only in a positive detection case, and whereby each individual circle only becomes visible above a certain concentration value of the analyte. Further there is no suggestion of a star configuration in which each of the spokes becomes visible above a certain concentration value and, in the positive case, a predefined spoke appears or the individual spokes detect the presence of several analytes and one spoke appears above a certain concentration value. Especially, there is no disclosure or suggestion of groups of symbols wherein some of the symbols are rendered visible above a certain concentration value of the analyte, as recited in claim 15.

Additionally, the method of claim 10, from which claims 14 and 15 depend, is not obvious over the combined teachings of the cited references. The combined teachings of the Brown et al. and Gao et al. do not disclose or suggest the method of claim 10, or the device recited in claim 10 wherein the surfaces with immobilized molecules or molecule classes provided on a panel of the device are arranged in a matrix or coordinate system, and the surfaces

are represented by one or many symbols linearly or in a matrix arranged in a different manner, and therefore do not render obvious claim 15 which depends from claim 10.

Claim 15 is not obvious in view of the combined teachings of Brown et al. and Gao et al. Withdrawal of this section 103 rejection is respectfully requested.

REJECTION UNDER 35 USC 103 (Claim 18)

At page 10 of the Office Action, the Examiner rejected claim 18 under 35 USC 103 as being unpatentable over Brown et al. in view of Blatt et al., published U.S. application 2005/0249633. The Examiner contended that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Brown et al. to provide additional preparation/manipulation, such as purification, of the sample for the benefit of making the sample more suitable for testing and speeding up the testing time.

Applicants traverse this rejection. Claim 18 is directed to the method according to claim 10, wherein the sample is prepared before, during or afterwards by means of purification, aliquotation, derivatization and/or isolation in order to be applied onto the panel of the device.

Brown et al was discussed above.

Blatt et al., published U.S. application 2005/0249633 discloses systems, devices, cartridges and kits for detecting and/or quantifying at analytes using different techniques in a single sample. In paragraph [0079] the reference mentions that test samples may require preparation, such as extraction or purification, to prepare it for testing.

Claim 18 is not obvious over the combined teachings of Brown et al. and Blatt et al. As discussed above, the method of claim 10, from which claim 18 depends, is not obvious over Brown et al. The addition of the teaching of Blatt et al., that a sample can be prepared for testing by extraction or extraction, does not supply what is missing from Brown et al. The combined teachings of the cited references still do not disclose or suggest the method of claim 10, or the device recited in claim 10 wherein the surfaces with immobilized molecules or molecule classes provided on a panel of the device are arranged in a matrix or coordinate system, and the surfaces

are represented by one or many symbols linearly or in a matrix arranged in a different manner, and therefore do not render obvious claim 18 which depends from claim 10.

Withdrawal of this section 103 rejection is respectfully requested.

REJECTION UNDER 35 USC 103 (Claims 24 and 25)

At page 10 of the Office Action the Examiner rejected claims 24 and 25 under 35 USC 103 as unpatentable over Brown et al., U.S. Patent 5,150,701. Regarding claim 24, the Examiner alleged that it would have been obvious to one of ordinary skill in the art that the Brown et al. device could have been used for the purposes described in claim 24. Regarding claim 25, the Examiner contended that it would have been obvious to use the device for diagnosis because it is well-known in the art that conventional solid-phase immunoassays or enzyme immunoassays can be used to diagnose a patient before, during or after a therapeutic measure.

Applicants traverse this rejection.

Claim 24 has been amended to delete reference to the use of the device of claim 1, and instead recite the device of claim 1. Amended claim 24 is directed to the device of claim 1, wherein the molecules or molecule classes to be tested for are molecules or molecule classes in human medicine, veterinary medicine or other category recited in the claim. Claim 25 has been amended to recite the method according to claim 20, wherein the method is performed for diagnosis immediately before, during or after a therapeutic measure. Claim 20 depends from claim 10.

Claims 24 and 25 are not obvious over Brown et al. for the reasons discussed above. Brown et al. does not disclose or suggest the method of claim 10, or the device recited in claim 10 wherein the surfaces with immobilized molecules or molecule classes provided on a panel of the device are arranged in a matrix or coordinate system, and the surfaces are represented by one or many symbols linearly or in a matrix arranged in a different manner, and therefore do not render obvious claim 24 which depends from claim 1, or claim 25 which depends from claim 10.

Withdrawal of this section 103 rejection is respectfully requested.

In view of the above, Applicants believe the pending application is in condition for allowance. Reconsideration of the application is respectfully requested and an early Notice of Allowance is earnestly solicited.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 14519-00001-US. A duplicate copy of this paper is enclosed.

Dated: August 3, 2010

Respectfully submitted,

Electronic signature: /Liza D. Hohenschutz/
Liza D. Hohenschutz

Registration No.: 33,712
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant